



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/737,633	11/15/96	SAMARITANI	F P/42-60

HM11/0603
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NEW YORK NY 10036-8403

EXAMINER	
FITZGERALD, D	
ART UNIT	PAPER NUMBER
1646	11

DATE MAILED: 06/03/98

attached
Please find below a communication from the EXAMINER in charge of this application.
1

Commissioner of Patents

FILE

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EXAMINER INTERVIEW SUMMARY RECORD

All participants (applicant, applicant's representative, PTO personnel):

David Fitzgerald (PTO)

Charles Achkar (Reg. no. P43,311)

Date of interview: **2 June 1998** Type: ☒ Telephone/fax ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative)Exhibit shown or demonstration conducted: ☐ Yes ☒ No Attachment(s): ☐ Yes ☒ No

If yes for either, brief description:

Agreement ☐ was reached with respect to some or all of the claims in question ☒ was not reached.

Claims discussed: all, generally

Identification of prior art discussed: **Hershenson '605**

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Mr. Achkar renewed the argument that Hershenson does not disclose an IFN formulation consisting of IFN, a buffer, mannitol, and albumin as instantly claimed, and that the affirmative teachings in the patent regarding the inclusion of a solubilizer, e.g., PEG, were tantamount to a teaching away from their omission. The examiner agreed that the prior art of record does not teach a composition meeting the limitations of applicant's claims, and further that the improvement described and claimed by Hershenson involves a stabilizer as an integral component. He was not persuaded, however, that the improvement claimed in the '605 patent constitutes evidence that the invention here claimed would not have been obvious. In the examiner's view, the prior art teachings that mannitol and albumin were known protein stabilizers suitable for use with IFN- β suffices to make a *prima facie* case for the obviousness of the claimed invention, and none of the evidence on this record to which applicant has adverted is of such character as would rebut the *prima facie* case.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

☐ 1. It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph below has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW (e.g., items 1-7 enumerated in M.P.E.P. § 713.04). If a response to the last Office action has already been filed, then applicant is given one month from this interview date to provide a statement of the substance of the interview.

☐ 2. Since the examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections, and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the substance of the interview unless box 1 above is also checked.

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